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EXAMINER
LIOU, ERIC

ART UNIT	PAPER NUMBER
3628	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-24* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>26 June 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/1/04</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Priority

1.   The Examiner has given consideration to applicant's Provisional Application No.

60/393,678 filed on 7/3/02. For examining purposes of this application, the effective filing date

will be 7/3/02.

2.   Examiner has given consideration to prior art, U.S. Patent Application Publication

2003/0236721 that was filed on 5/20/03. U.S. Patent Application Publication 2003/0236721

claims benefit of provisional application 60/382,301 which was filed on 5/22/02. For examining

purposes of this application, the effective filing date for U.S. Patent Application Publication

2003/0236721 will be 5/22/02.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

4.   Claims 1-21, and 23-24 are rejected under 35 U.S.C. 101 because the claimed invention

is directed to non-statutory subject matter.

5.   For a claimed invention to be statutory, the claimed invention must produce a useful,

tangible and concrete result. An invention which is eligible for patenting under 35 U.S.C 101, is

in the "useful arts" when it is a machine, manufacture, process or composition of matter, which

produces a useful, concrete and tangible result. The fundamental test for patent eligibility is thus

to determine whether the claimed invention produces a useful tangible and concrete result. See

AT&T v. Excel Communications Inc., 172 F.3d at 1358, 50 USPQ 2d at 1452 and State Street

Bank & Trust Co. v. Signature Financial Group, Inc., 149 F.3d at 1373, 47 USPQ 2d at 1601

(Fed. Cir. 1998). The test for practical application as applied by the examiner involves the

determination of the following factors.

a)"useful" – The Supreme Court in Diamond v. Diehr requires that the examiner look at

the claimed invention as a whole and compare any asserted utility with the claimed invention to

determine whether the asserted utility is accomplished. Applying utility case law the examiner

will not that:

> i.utility need not be expressly recited in the claims, rather it may be inferred.

> ii.if the utility is not asserted in the written description, then it must be well
>
> established.

b)"tangible" – Applying In re Warmerdam, 33 F.3d 1354, 31 UAPQ 2d 1754 Fed. Cir.

1994), the examiner will determine whether there is simply a mathematical construct claimed,

such as a disembodied data structure and method of making it. If so, the claim involves no more

than manipulation of an abstract idea and is, therefore, nonstatutory under 35 U.S.C 101. In

Warmerdam, the abstract idea of a data structure became capable of producing a useful result

when it was fixed in a tangible medium, which enabled its functionality to be realized.

c)"concrete" – Another consideration is whether the invention produces a "concrete"

result. Usually, this question arises when a result cannot be assured. An appropriate rejection

under 35 U.S.C 101 should be accompanied by a lack of enablement rejection, because the

invention cannot operate as intended without undue experimentation.

6.   In the present case, the inventions of the claims do not produce a tangible result, i.e. a
step producing a result with the aggregate cost, sales volume, net price, manufacturing
contribution, after tax operating income, and economic value. Therefore, the lack of a tangible
result renders these claims as being not patentable.

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

8.   Claims 1,4,8-19, and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being
indefinite for failing to particularly point out and distinctly claim the subject matter which
applicant regards as the invention.

9.   As per claim 1, step (a) recites calculating an aggregate cost of a product manufacture or
acquisition activity. Step (f) recites determining the economic value created by the particular
business activity. The determining step (f) does not take into account the case when step (a) is
calculating a cost of a product manufacture.

10.   Claim 4 recites the limitation "the loading step" in line 2. There is insufficient antecedent
basis for this limitation in the claim. The Examiner is interpreting claim 4 to depend on claim 3.

11.   Claim 8 recites the limitation "graphical format" in line 3. There is insufficient
antecedent basis for this limitation in the claim.

12.   Claim 10 recites the limitation "the graphical format" in line 1. There is insufficient
antecedent basis for this limitation in the claim. The Examiner is interpreting claim 10 to depend
on claim 8.

13.   Claim 11 recites the limitation "the graphical format" in line 1. There is insufficient

antecedent basis for this limitation in the claim. The Examiner is interpreting claim 11 to depend

on claim 8.

14.   Claim 12 recites the limitation "the graphical format" in line 1. There is insufficient

antecedent basis for this limitation in the claim. The Examiner is interpreting claim 12 to depend

on claim 8.

15.   Claim 13 recites the limitation "the graphical format" in line 1. There is insufficient

antecedent basis for this limitation in the claim. The Examiner is interpreting claim 13 to depend

on claim 8.

16.   As per claim 24, it is unclear which statutory class the claim is directed towards. Claim

24 is a system that depends on method claim 1.

Claim Rejections - 35 USC § 102

17.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18.   Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Robert Rachlin &

Allen Sweeney. Accounting and Financial Fundamentals for Nonfinancial Executives. New

York: American Management Association, 1996.

19.   As per claim 1, Rachlin teaches a method of computing an economic value created by a

particular business activity, the method comprising, in sequence, the steps of: a) calculating an

aggregate cost of a product manufacture or acquisition activity (Rachlin: pg. 109, Exhibit 9-2,

The Examiner interprets the variable and semivariable expenses to be the aggregate cost of a

product.); b) selecting one or more parameters, the parameters comprising a customer, a sales

region, a product grade and a market segment (Rachlin: pg. 115-117, Exhibits 9-5, 9-6, and 9-7,

The parameters include the region and the product grade.); c) calculating a sales volume and a

net price related to the one or more parameters (Rachlin: pg. 109, Exhibit 9-2, The Examiner

interprets the 6,000 widgets to be the sales volume and the net income to be the net price); d)

calculating a manufacturing contribution related to the one or more parameters (Rachlin: pg. 112,

see unit price per widget); e) calculating an after tax operating income related to the one or more

parameters (Rachlin: pg. 43, Exhibit 5-3, see net income); f) calculating an economic value

added for the one or more parameters, thereby determining the economic value created by the

particular business activity (Rachlin: pg. 115-117, Exhibits 9-5, 9-6, and 9-7 , see operating

profit).

Claim Rejections - 35 USC § 103

20.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

21.   Claims 2, 3-4, 6, 8-17, 20, and 22-24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Robert Rachlin & Allen Sweeney, Accounting and Financial Fundamentals for

Nonfinancial Executives. New York: American Management Association, 1996 in view of

Shulman, U.S. Publication No. 2003/0018503.

22.   As per claim 2, Rachlin teaches a method of computing the economic value created by a

particular business activity, the method comprising, in sequence, the steps of: a) calculating an

aggregate cost of a product manufacturing or acquisition activity by: 1) collecting utility and raw

materials cost for each product (Rachlin: pg. 109, Exhibit 9-2); 2) assembling cost data for each

manufacturing operation (Rachlin: pg. 109, Exhibit 9-2); 3) assembling productivity,

composition and packaging data for each product grade (Rachlin: pg. 109, Exhibit 9-2, The

Examiner notes, one skilled in the art is readily capable of assembling the productivity,

composition, and packaging data for each product grade (pg. 117, Exhibit 9-7)); 4) collecting

manufacturing volume by product grade for each manufacturing operation (Rachlin: pg. 109,

Exhibit 9-2 and pg. 117, Exhibit 9-7); b) calculating a sales volume and a net price related to a

customer, a sales region, a grade and a market segment by: i) collecting sales data related to each

customer, region, and grade (Rachlin: pg. 109, Exhibit 9-2 and pg. 115-117, Exhibits 9-5, 9-6,

and 9-7, The Examiner interprets the 6,000 widgets to be the sales volume and the net income to

be the net price.); ii) identifying the market segment for each customer, region, and grade

(Rachlin: pg. 109, Exhibit 9-2 and pg. 115-117, Exhibits 9-5, 9-6, and 9-7); iii) identifying

rebates and discounts for each customer, region, and grade (Rachlin: pg. 109, Exhibit 9-2 and pg.

115-117, Exhibits 9-5, 9-6, and 9-7, The Examiner notes, it is basic knowledge of one skilled in

the art to take into account rebates and discounts when calculating a sales volume and a net

price.); c) calculating manufacturing contribution related to each customer, region, grade, and

market segment by: i) collecting finished product distribution expense and variable cost data

related to each product and each region (Rachlin: pg. 112 and pg. 115-117, Exhibits 9-5, 9-6 and

9-7); d) calculating after tax operating income related to each customer, region, grade, and

market segment by: i) collecting research and development and all other administrative expense

and net permanent investment data related to each product family (Rachlin: pg. 43, Exhibit 5-3,

see net income, and Rachlin: pg. 115-117, Exhibits 9-5, 9-6, and 9-7) ; ii) collecting sales

expense data related to each region, adjusted for sales support provided by other regions

(Rachlin: pg. 115-116, Exhibits 9-5 and 9-6); iii) identifying sales expense effort by product

families related to each region and market segment (Rachlin: pg. 115-117, Exhibits 9-5, 9-6, and

9-7); iv) identifying effective regional tax rates and miscellaneous global cost data (Rachlin: pg.

43, Exhibit 5-3, The Examiner notes; it is basic knowledge of one skilled in the art to identify the

effective regional tax rates and miscellaneous global cost data when calculating the net income.);

e) calculating economic value added related to each customer, region, grade, and market segment

(Rachlin: pg. 115-117, Exhibits 9-5, 9-6, and 9-7 , see operating profit).

23.   Rachlin does not teach collecting cost data from diverse sources into a relational

database.

24.   Shulman teaches collecting cost data from diverse sources into a relational database

(Shulman: paragraph 0052).

25.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included collecting cost

data from diverse sources into a relational database as taught by Shulman for the advantage of

providing an improved system and method which may be used to better assess the profitability of

an entity (Shulman: paragraph 0017).

26.   As per claim 3, Rachlin in view of Shulman teaches the method of claim 2 as described

above. Shulman further teaches the collection steps a) i), b) i), c) i), d) i) and d) ii) is

accomplished by loading the data into predetermined fields in a relational database system

(Shulman: paragraph 0052 – The Examiner interprets the user 72 as entering the input data into

predetermined fields in the database through the user interface.).

27.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included accomplishing the

steps above by loading the data into predetermined fields in a relational database system as

taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

28.   As per claim 4, Rachlin in view of Shulman teaches the method of claim 2 as described

above. Shulman further teaches the use of accumulating data in one or more spreadsheets

(Shulman: Figure 7). However, Shulman does not teach accumulating data in one or more

spreadsheets before the loading step. The Examiner notes, accumulating data in spreadsheets

before the loading step does not change the overall result of the invention.

29.   It would have been prima facie obvious to one of ordinary skill in the art to have

modified the method of Rachlin to have included accumulating data in one or more spreadsheets

before the loading step for the advantage of providing an improved system and method which

may be used to better assess the profitability of an entity (Shulman: paragraph 0017).

30.   As per claim 6, Rachlin in view of Shulman teaches the method of claim 2 as described

above. Shulman further teaches the calculation steps a), b), c) d), and e) are performed by: 1)

accessing the data in the predetermined fields of the relational database system (Shulman:

paragraph 0084); 2) applying predetermined equations to the data (Shulman: paragraphs 0084,

0096-0099); and 3) storing the results in predetermined results fields in the relational database

system (Rachlin: Figure 2, "60" and "68", The Examiner notes, it is basic knowledge of one

skilled in the art to store the results of calculations in a database in order to access the

information at a future time. According to *in re Jacoby,* 135 USPQ 317 (CCPA 1962), the

skilled artisan is presumed to know something more about the art than only what is disclosed

in the applied references. In *In re Bode,* 193 USPQ 12 (CCPA 1977), every reference relies to

some extent on knowledge of persons skilled in the art to complement that, which is disclosed

therein.).

31.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included accessing the data

in the predetermined fields of the relational database, applying predetermined equations to the

data, and storing the results in predetermined results fields in the relational database system as

taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

32.   As per claim 8, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Shulman further teaches displaying the results in predetermined user selectable graphical

formats by: 4) defining each graphical format to have predetermined input parameters (Rachlin:

paragraph 0084 and paragraph 0150); 5) accessing the predetermined results fields of the

relational database that correspond to the input parameters (Rachlin: paragraph 0084 and

paragraph 0150).

33.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included displaying the

results in predetermined user selectable graphical formats by defining each graphical format to

have predetermined input parameters and accessing the predetermined results fields of the

relational database that correspond to the input parameters as taught by Shulman for the

advantage of providing an improved system and method which may be used to better assess the

profitability of an entity (Shulman: paragraph 0017).

34.   As per claim 9, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Shulman further teaches the predetermined results fields are loaded into a spreadsheet

and then into a pivot table to display the results (Shulman: paragraph 0150 and Figure 7).

35.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included the predetermined

results fields are loaded into a spreadsheet and then into a pivot table to display the results as

taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

36.   As per claim 10, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Shulman further teaches the graphical format is a numeric table comprising a pivot table

(Shulman: Figure 7).

37.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included the predetermined

results fields are loaded into a spreadsheet and then into a pivot table to display the results as

taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

38.   As per claim 11, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Shulman further teaches a graphical format (Shulman: Figures 7 and 11B). The

Examiner notes, the type of graphical format (i.e. waterfall chart) is a recitation of non-functional

descriptive material. Non-functional descriptive material cannot lend patentability to an

invention that would have otherwise been anticipated by the prior art. *In re Ngai*, 367 F.3d 1336,

1339; 70 USPQ2d 1862, 1864 (Fed. Cir. 2004); *cf. In re Gulack*, 703 F.2d 1381, 1385; 217

USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the

substrate, the descriptive material will not distinguish the invention from the prior art in terms of

patentability).

39.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included a graphical format

as taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

40.   As per claim 12, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Shulman further teaches a graphical format (Shulman: Figures 7 and 11B). The

Examiner notes, the type of graphical format (i.e. bar chart) is a recitation of non-functional

descriptive material. Non-functional descriptive material cannot lend patentability to an

invention that would have otherwise been anticipated by the prior art. *In re Ngai*, 367 F.3d 1336,

1339; 70 USPQ2d 1862, 1864 (Fed. Cir. 2004); *cf. In re Gulack*, 703 F.2d 1381, 1385; 217

USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the

substrate, the descriptive material will not distinguish the invention from the prior art in terms of

patentability).

41.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included a graphical format

as taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

42.   As per claim 13, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Shulman further teaches the graphical format is a line graph (Shulman: Figure 11B).

43.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included a graphical format

that is a line graph as taught by Shulman for the advantage of providing an improved system and

method which may be used to better assess the profitability of an entity (Shulman: paragraph

0017).

44.   As per claim 14, Rachlin in view of Shulman teaches the method of claim 1 as described

above. Rachlin further teaches the business activity is a manufacturing operation, and wherein

costs across families of products are distributed based upon shared use of manufacturing assets

(Rachlin: pg. 117, Exhibit 9-7, The Examiner notes, the fixed expenses are shared by all

products).

45.   As per claim 15, Rachlin in view of Shulman teaches the method of claim 14 as described

above. Rachlin further teaches the shared use of assets is determined by the fraction of time a

product family occupies each asset (Rachlin: pg. 117, Exhibit 9-7, The Examiner notes, it is

basic knowledge of one skilled in the art that the fixed expenses are determined by the fraction of

time a product family occupies each asset.).

46.   As per claim 16, Rachlin in view of Shulman teaches the method of claim 14 as described

above. Rachlin further teaches the shared use of assets is determined by the volume fraction of

a product family flowing through each asset (Rachlin: pg. 117, Exhibit 9-7, The Examiner notes,

it is basic knowledge of one skilled in the art that the fixed expenses are determined by the

volume fraction of a product family flowing through each asset.).

47.   As per claim 17, Rachlin in view of Shulman teaches the method of claim 14 as described

above. Rachlin further teaches unexpected costs are allocated over all the products manufactured

according to predetermined criteria (Rachlin: pg. 117, Exhibit 9-7, The Examiner interprets the

fixed expenses to include unexpected costs which are allocated over all the products

manufactured.).

48.   As per claim 20, Rachlin in view of Shulman teaches the method of claim 2 as described

above. Rachlin further teaches the step of reconciling the cost of manufacture of an internally

produced grade with the raw materials list (Rachlin: pg. 104).

49.   As per claim 22, Rachlin teaches a machine-readable storage medium containing a set of

instructions for causing a computing device to calculate an economic value created by a

particular business activity (Shulman: paragraphs 0027 and 0053 – "computer-readable medium

comprising instructions"), said instructions comprising the steps of; b) calculating an aggregate

cost of a product manufacture or acquisition activity (Rachlin: pg. 109, Exhibit 9-2, The

Examiner interprets the variable and semivariable expenses to be the aggregate cost of a

product.); parameters comprising a customer, a sales region, a product grade and a market

segment (Rachlin: pg. 115-117, Exhibits 9-5, 9-6, and 9-7, The parameters include the region

and the product grade.); d) calculating a sales volume and a net price related to the one or more

parameters (Rachlin: pg. 109, Exhibit 9-2, The Examiner interprets the 6,000 widgets to be the

sales volume and the net income to be the net price); e) calculating a manufacturing contribution

related to the one or more parameters (Rachlin: pg. 112, see unit price per widget); f) calculating

an after tax operating income related to the one or more parameters (Rachlin: pg. 43, Exhibit 5-3,

see net income); g) calculating an economic value added for the one or more parameters, thereby

determining the economic value created by the particular business activity (Rachlin: pg. 115-117,

Exhibits 9-5, 9-6, and 9-7 , see operating profit).

50.   Rachlin does not teach a) receiving data from a user interface and c) providing an input

port for a user to select one or more parameters

51.   Shulman teaches a) receiving data from a user interface (Shulman: Figure 2, "70" and

paragraph 0052) and c) providing an input port for a user to select one or more parameters

(Shulman: Figure 2, "70" and paragraph 0150).

52.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included a) receiving data

from a user interface and c) providing an input port for a user to select one or more parameters as

taught by Shulman for the advantage of providing an improved system and method which may

be used to better assess the profitability of an entity (Shulman: paragraph 0017).

53.   As per claim 23, Rachlin in view of Shulman teaches the method of claim 1 as described

above. Shulman further teaches utilizing a plurality of electronic spreadsheets and a relational

database, the spreadsheets being used for the collection of data and the display of results, the

relational database being used to receive the data from the spreadsheets, to calculate results in

accordance with predetermined equations and to store the results in predefined data structures

(Shulman: Figure 2, "60", Figure 3A, and paragraphs 0084 and 0150 – The Examiner notes, it is

basic knowledge of one skilled in the art to store the results of calculations in a database in order

to access the information at a future time. According to *in re Jacoby,* 135 USPQ 317 (CCPA

1962), the skilled artisan is presumed to know something more about the art than only what is

disclosed in the applied references. In *In re Bode,* 193 USPQ 12 (CCPA 1977), every

reference relies to some extent on knowledge of persons skilled in the art to complement that,

which is disclosed therein.).

54.   As per claim 24, Rachlin in view of Shulman teaches the method of claim 1 as described

above. Shulman further teaches the system comprising: a server node having a memory therein,

the memory having a user-interface section, a custodian-accessible section, a data interface

section, and a repository section (Shulman: Figure 2 and paragraph 0052, The Examiner

interprets the system databases 60 as being stored on multiple sections of memory.), the user-

interface section having at least one predetermined user-accessible form for entering data and at

least one predetermined graphical format for viewing data and results (Shulman: Figure 9A and

paragraphs 0052 and 0150); the custodian-accessible section having privileged access to the

user-interface section, to the data interface section and to the repository section (Shulman: Figure

2 and paragraph 0206 – The Examiner interprets the modifications to permit secure access to

mean allowing privileged access to the user-interface section.); the repository section having at

least one relational database containing predefined records that have been entered by a user or

received by the data interface and predetermined equations for operation upon the records to

produce results (Shulman: Figure 2 and paragraph 0052 and 0084-0086); at least one user node

connectible to the memory of the server, the user node being operable in either an input mode or

an output mode (Shulman: Figure 2, "70" and paragraphs 0052 and 0190), when operable in the

input mode, the user node being connectible to the repository section for entry of data or for

editing of records previously entered by that user (Shulman: paragraph 0052), when operable in

the output mode, the user node being connectible to the repository section for retrieval of data

and results, the user node displaying data and results in accordance with the at least one

predetermined graphical format (Shulman: Figure 2 and paragraphs 0150 and 0190).

55.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin to have included the system

described above as taught by Shulman for the advantage of providing an improved system and

method which may be used to better assess the profitability of an entity (Shulman: paragraph

0017).

56.   Claims 5,7, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Robert Rachlin & Allen Sweeney, Accounting and Financial Fundamentals for Nonfinancial

Executives. New York: American Management Association, 1996 in view of Shulman, U.S.

Publication No. 2003/0018503 and further in view of Adendorff et al., U.S. Publication No.

2002/0099563.

57.   As per claim 5, Rachlin in view of Shulman teaches the method of claim 2 as described

above. Rachlin in view of Shulman does not teach the step of generating a discrepancy report by

determining if data required for a subsequent calculation is missing and analyzing the data

against predetermined criteria for discrepancies or possible out of normal range values.

58.   Adendorff teaches the step of generating a discrepancy report by determining if data

required for a subsequent calculation is missing and analyzing the data against predetermined

criteria for discrepancies or possible out of normal range values (Adendorff: paragraph 0179).

59.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin in view of Shulman to have

included the step of generating a discrepancy report by determining if data required for a

subsequent calculation is missing and analyzing the data against predetermined criteria for

discrepancies or possible out of normal range values as taught by Adendorff for the advantage of

simplifying system administration and trouble-shooting (Adendorff: paragraph 0179).

60.   As per claim 7, Rachlin in view of Shulman teaches the method of claim 6 as described

above. Rachlin in view of Shulman does not teach the step of generating a discrepancy report by

determining if data required for a subsequent calculation is missing and analyzing the data

against predetermined criteria for discrepancies or possible out of normal range values.

61.   Adendorff teaches the step of generating a discrepancy report by determining if data

required for a subsequent calculation is missing and analyzing the data against predetermined

criteria for discrepancies or possible out of normal range values (Adendorff: paragraph 0179).

62.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin in view of Shulman to have

included the step of generating a discrepancy report by determining if data required for a

subsequent calculation is missing and analyzing the data against predetermined criteria for

discrepancies or possible out of normal range values as taught by Adendorff for the advantage of

simplifying system administration and trouble-shooting (Adendorff: paragraph 0179).

63.   As per claim 18, Rachlin in view of Shulman teaches the method of claim 1 as described

above. Rachlin in view of Shulman does not teach the step of generating a discrepancy report by

determining if data required for each calculation is missing and analyzing the data against

predetermined criteria for discrepancies or possible out of normal range values.

64.   Adendorff teaches the step of generating a discrepancy report by determining if data

required for each calculation is missing and analyzing the data against predetermined criteria for

discrepancies or possible out of normal range values (Adendorff: paragraph 0179).

65.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

invention was made to have modified the method of Rachlin in view of Shulman to have

included the step of generating a discrepancy report by determining if data required for each

calculation is missing and analyzing the data against predetermined criteria for discrepancies or

possible out of normal range values as taught by Adendorff for the advantage of simplifying

system administration and trouble-shooting (Adendorff: paragraph 0179).

66.   As per claim 19, Rachlin in view of Shulman and further in view of Adendorff teaches

the method of claim 18 as described above. Adendorff further teaches the step of terminating the

calculation if the discrepancy report indicates missing data or data containing discrepancies

(Adendorff: paragraph 0179). The Examiner notes, it is basic knowledge of one skilled in the art

to terminate the calculation if there is missing data or data containing discrepancies in order to

maintain accurate results. According to *in re Jacoby,* 135 USPQ 317 (CCPA 1962), the skilled

artisan is presumed to know something more about the art than only what is disclosed in the

applied references. In *In re Bode,* 193 USPQ 12 (CCPA 1977), every reference relies to some

extent on knowledge of persons skilled in the art to complement that, which is disclosed

therein.).

67.   Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robert Rachlin &

Allen Sweeney, <u>Accounting and Financial Fundamentals for Nonfinancial Executives</u>. New

York: American Management Association, 1996 in view of Shulman, U.S. Publication No.

2003/0018503 and further in view of Plumer et al., U.S. Publication No. 2005/0065863.

68.   As per claim 21, Rachlin in view of Shulman teaches the method of claim 20 as described

above. Rachlin in view of Shulman does not teach <u>the steps of: a) upon receiving a cost change</u>

<u>that can affect the Cost of Manufacture, comparing the Ingredients List for all Production Units</u>

<u>to the Cost of Manufacture for each product Grade to determine each affected ingredient, where</u>

<u>the Cost of Manufacture is an aggregated value based upon the production mix entered; b) for</u>

<u>each affected ingredient that is used to manufacture a product grade, calculating the difference</u>

<u>between an existing (entered or previously calculated) ingredient cost and the Cost of</u>

<u>Manufacture, where the fixed cost and the variable cost is calculated independently; c) if the</u>

<u>difference between the existing ingredient cost and the Cost of Manufacture exceeds a</u>

<u>predetermined threshold, updating the ingredient cost with the cost of manufacture; d) initiating a</u>

<u>recalculation of all cost of manufacture values for all affected grades; e) repeating steps a)</u>

<u>through d) until the difference between the entered ingredient cost and the Cost of Manufacture</u>

<u>is less than or equal to the predetermined threshold or until a predetermined number of</u>

<u>repetitions has been reached.</u>

69.   Plumer teaches the steps of: a) upon receiving a cost change that can affect the Cost of

Manufacture, comparing the Ingredients List for all Production Units to the Cost of Manufacture

for each product Grade to determine each affected ingredient, where the Cost of Manufacture is

an aggregated value based upon the production mix entered (Plumer: paragraph 0108 – The

Examiner interprets the cost model manager to compare and determine each affected

ingredient.); b) for each affected ingredient that is used to manufacture a product grade,

calculating the difference between an existing (entered or previously calculated) ingredient cost

and the Cost of Manufacture, where the fixed cost and the variable cost is calculated

independently (Plumer: paragraph 0108); c) if the difference between the existing ingredient cost

and the Cost of Manufacture exceeds a predetermined threshold, updating the ingredient cost

with the cost of manufacture (Plumer: paragraph 0108); d) initiating a recalculation of all cost of

manufacture values for all affected grades (Plumer: paragraph 0108 – The Examiner interprets

updating the cost model as recalculating the cost of manufacture values.).; e) repeating steps a)

through d) until the difference between the entered ingredient cost and the Cost of Manufacture

is less than or equal to the predetermined threshold or until a predetermined number of

repetitions has been reached (Plumer: paragraph 0108 – The Examiner interprets updating the

cost model to occur repetitively until the input information is less than or equal to the threshold

value.).

70.   It would have been prima facie obvious to one of ordinary skill in the art at the time the

 invention was made to have modified the method of Rachlin in view of Shulman to have

included the steps of: a) upon receiving a cost change that can affect the Cost of Manufacture,

comparing the Ingredients List for all Production Units to the Cost of Manufacture for each

product Grade to determine each affected ingredient, where the Cost of Manufacture is an

aggregated value based upon the production mix entered; b) for each affected ingredient that is

used to manufacture a product grade, calculating the difference between an existing (entered or

previously calculated) ingredient cost and the Cost of Manufacture, where the fixed cost and the

variable cost is calculated independently; c) if the difference between the existing ingredient cost

and the Cost of Manufacture exceeds a predetermined threshold, updating the ingredient cost

with the cost of manufacture; d) initiating a recalculation of all cost of manufacture values for all

affected grades; e) repeating steps a) through d) until the difference between the entered

ingredient cost and the Cost of Manufacture is less than or equal to the predetermined threshold

or until a predetermined number of repetitions has been reached as taught by Plumer for the

advantage of providing an improved method for cost accounting (Plumer: paragraph 0011).
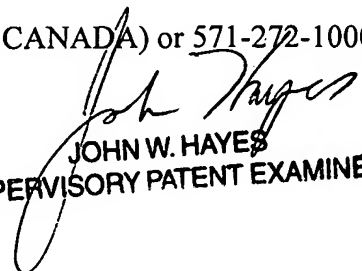
Conclusion

The Examiner has cited particular portions of the references as applied to the claims

above for the convenience of the applicant. Although the specified citations are representative of

the teachings in the art and are applied to the specific limitations within the individual claim,

other passages and figures may apply as well. It is respectfully requested that the applicant, in

preparing the responses, fully consider the references in entirety as potentially teaching all or

part of the claimed invention, as well as the context of the passage as taught by the prior art or

disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Eric Liou whose telephone number is 571-270-1359. The

examiner can normally be reached on Monday - Friday, 7:30-5:00 (first Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER